

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

vs.

SETH AMOS NELSON,

Defendant/Movant.

Cause No. CR 07-139-GF-BMM
CV 14-046-GF-BMM

ORDER DISMISSING § 2255
MOTION AND DENYING
CERTIFICATE OF APPEALABILITY

On June 9, 2014, Defendant Seth Amos Nelson moved vacate, set aside, or correct his sentence under 28 U.S.C. § 2255. Nelson is a federal prisoner proceeding pro se.

Nelson filed a § 2255 motion on January 14, 2010 (Doc. 84). The motion and a certificate of appealability were denied in the District Court on March 19, 2010 (Doc. 87). Nelson did not timely appeal (Doc. 92).

The Court of Appeals has not authorized Nelson to file a second § 2255 motion in this Court, *see* 28 U.S.C. § 2255(h), 2244(c), so the motion must be dismissed for lack of jurisdiction, *Burton v. Stewart*, 549 U.S. 147, 149 (2007) (*per curiam*).

A certificate of appealability is denied because the case is clearly controlled by *Burton*. *Gonzalez v. Thaler*, ___ U.S. ___, 132 S. Ct. 641, 648 (2012) (quoting *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

Accordingly, IT IS HEREBY ORDERED as follows:

1. Nelson's § 2255 motion (Doc. 99) is DISMISSED for lack of jurisdiction.
2. A certificate of appealability is DENIED. The Clerk of Court shall immediately process the appeal if Nelson files a Notice of Appeal;
3. The Clerk of Court shall ensure that all pending motions in this case and in CV 14-46-GF-BMM are terminated and shall close the civil file by entering a judgment of dismissal.

DATED this 12th day of June, 2014.

/s/ Brian M. Morris
Brian M. Morris
United States District Court